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OFFICE OF THE ATTORNEY GENERAL
CONSUMER COUNCIL

March 29, 2022

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Armstead Jones, Chair
Consumer Council of Maryland

Re: House Bill 107 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies - Statewide (SUPPORT)

The Consumer Council of Maryland supports House Bill 107, sponsored by Delegate Marvin E. Holmes, Jr., which would require common ownership communities to conduct regular reserve studies to determine how much the community will require for necessary maintenance and repairs. The Surfside Condominium collapse in Florida highlights the critical need for common ownership communities to conduct reserve studies. While such a requirement has been enacted for Montgomery and Prince George's Counties, the Consumer Council believes that a Statewide reserve study requirement is warranted.

The Consumer Council is an advisory body to the Consumer Protection Division in the Office of the Attorney General with members representing businesses, consumers and the public who are appointed by the Governor.

House Bill 107 would require an association to conduct a reserve study prior to the first meeting at which members other than the developer have a majority of votes in the association and an updated study every five (5) years thereafter. It further requires that an owner or developer of the community provide the amount of the recommended reserve fund to the association at the time of the first meeting. It provides a three-year period to meet the amount required by the initial reserve study and that every subsequent annual budget include reserve funds equal to the recommended reserve fund amount. Finally, this bill gives the governing body of the association the authority to increase a levied assessment to cover the recommended reserve funding amount required regardless of any provision in the governing documents restricting assessment increases that may be levied in a year.

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Reserve studies review the common elements of an association to determine the major repairs and replacements that may be needed in the future and ensure that the association is properly planning for these estimated costs. Such studies not only help to secure the financial stability of the association, but they are also needed to enable members to buy and sell their homes, since many banks and mortgage companies will not lend money to owners who reside in associations that do not have current reserve studies. The costs incurred to do the reserve study will be commensurate with the types and amount of common property that must be maintained, so smaller communities are unlikely to be overburdened by this law.

The Consumer Protection Division has reported to the Consumer Council that it has received complaints from associations that learned after a transfer of control that the developer failed to leave any money in the reserve fund, placing the association in a difficult monetary position. The Division has also reported receiving calls and complaints from members of associations who are assessed with very high special assessments as a result of not having enough funds in their reserve accounts because reserve studies had not been done for a significant period of time. House Bill 107 would help to protect against these scenarios and help to prevent a Surfside Condominium disaster from occurring in Maryland.

For these reasons, the Consumer Council asks that the Judicial Proceedings Committee return a favorable report on House Bill 107.

cc: The Honorable Marvin E. Holmes, Jr.
Members, Judicial Proceedings Committee